

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS, INC. and NICE
SYSTEMS LTD,

Plaintiffs,

v.

WITNESS SYSTEMS, INC.

Defendant.

Civil Action No. 06-311-JJF

DEFENDANT WITNESS SYSTEMS, INC.'S THIRD AMENDED PROPOSED
FORM OF SPECIAL JURY VERDICT

FISH & RICHARDSON P.C.
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ATTORNEYS FOR DEFENDANT
WITNESS SYSTEMS, INC.

Dated: January 21, 2008

SPECIAL JURY VERDICT

We, the jury in the above-titled action, find the following special verdict on the questions submitted to us:

INFRINGEMENT AND VALIDITY

THE '570 PATENT

- 1) Has NICE proven by a preponderance of the evidence that Witness Systems infringed U.S. Patent No. 6,249,570?

Claim 6 YES _____(For NICE) NO _____ (For Witness)

- 2) Has Witness proven by clear and convincing evidence that U.S. Patent No. 6,249,570 is invalid?

Claim 6 YES _____(For Witness) NO _____ (For NICE)

THE '371 PATENT

- 3) Has NICE proven by a preponderance of the evidence that Witness Systems infringed U.S. Patent No. 5,396,371?

Claim 1 YES _____(For NICE) NO _____ (For Witness)

Claim 8 YES _____(For NICE) NO _____ (For Witness)

- 4) Has Witness proven by clear and convincing evidence that U.S. Patent No. 5,396,371 is invalid?

Claim 1 YES _____(For Witness) NO _____ (For NICE)

Claim 8 YES _____(For Witness) NO _____ (For NICE)

THE '109 PATENT

- 5) Has NICE proven by a preponderance of the evidence that Witness Systems infringed the U.S. Patent No. 7,010,109?

Claim 1 YES _____(For NICE) NO _____ (For Witness)

Claim 6 YES _____(For NICE) NO _____ (For Witness)

- 6) Has Witness proven by clear and convincing evidence that U.S. Patent No. 7,010,109 is invalid?

Claim 1 YES _____(For Witness) NO _____ (For NICE)

Claim 6 YES _____(For Witness) NO _____ (For NICE)

THE '372 PATENT

- 7) Has NICE proven by a preponderance of the evidence that Witness Systems infringed U.S. Patent No. 6,775,372?

Claim 1 YES _____(For NICE) NO_____ (For Witness)

Claim 15 YES _____(For NICE) NO_____ (For Witness)

Claim 33 YES _____(For NICE) NO_____ (For Witness)

- 8) Has Witness proven by clear and convincing evidence that U.S. Patent No. 6,775,372 is invalid?

Claim 1 YES _____(For Witness) NO_____ (For NICE)

Claim 15 YES _____(For Witness) NO_____ (For NICE)

Claim 33 YES _____(For Witness) NO_____ (For NICE)

THE '920 PATENT

- 9) Has NICE proven by a preponderance of the evidence that Witness Systems infringed U.S. Patent No. 6,870,920?

Claim 1 YES _____(For NICE) NO_____ (For Witness)

Claim 16 YES _____(For NICE) NO_____ (For Witness)

Claim 21 YES _____(For NICE) NO_____ (For Witness)

- 10) Has Witness proven by clear and convincing evidence that U.S. Patent No. 6,870,920 is invalid?

Claim 1 YES _____(For Witness) NO_____ (For NICE)

Claim 16 YES _____(For Witness) NO_____ (For NICE)

Claim 21 YES _____(For Witness) NO_____ (For NICE)

IF YOU HAVE FOUND NONE OF THE PATENT CLAIMS ABOVE TO BE BOTH INFRINGED AND NOT INVALID, PLEASE STOP HERE AND GO TO PAGE 6 TO SIGN YOUR VERDICT.

IF YOU HAVE FOUND ONE OR MORE OF THE PATENT CLAIMS ABOVE TO BE BOTH INFRINGED AND NOT INVALID, PLEASE CONTINUE TO PAGE 4.

WILLFULNESS

11) If you have found Witness Systems infringed a valid claim, do you find that NICE has proven by clear and convincing evidence that Witness Systems' infringement was willful?

YES _____(For NICE) NO _____ (For Witness)

DAMAGES

- 12) a. What damages, if any, do you award NICE for infringement of each patent that you found to be both valid and infringed?

Patent	Royalty Amount (\$)
'570	_____
'371	_____
'109	_____
'372	_____
'920	_____
TOTAL	_____

- b. If you awarded damages for any patent listed above, state the applicable royalty rate(s) that you applied to each such patent.

Patent	Royalty Rate (%)
'570	_____
'371	_____
'109	_____
'372	_____
'920	_____

We, the jurors, by signing below, indicate our unanimous verdict.

Jury Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Dated: January 21, 2008

FISH & RICHARDSON P.C.

By: /s/William J. Marsden, Jr.

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Attorneys for Defendant
Witness Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of January, 2008, I electronically filed with the Clerk of Court the foregoing Defendant Witness System Inc.'s Third Amended Proposed Form of Special Jury Verdict using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel.

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I also certify that on January 21, 2008, I have sent by electronic mail, the document(s) to the following non-registered participants:

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